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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/817,010

04/03/2004

Gordon Walker Nugent

1590

7590

01/19/2006

Gordon W. Nugent
160 Rivergate Drive
Wilton, CT 06897-3611

EXAMINER

VANAMAN, FRANK BENNETT

ART UNIT

PAPER NUMBER

3618

DATE MAILED: 01/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/817,010

Applicant(s)

NUGENT, GORDON WALKER

Examiner

Frank Vanaman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 31-45 is/are pending in the application.
- 4a) Of the above claim(s) 41-45 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 31-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Status of Application

1. Applicant's amendment, filed Oct. 31, 2005, has been entered in the application. Claims 31-45 are pending. Claims 41-45 are directed to a non-elected invention and are hereby withdrawn from consideration. An Office Action on claims 31-40 follows.

Claim Rejections - 35 USC § 112

2. Claims 36-40 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 36, lines 8-10, the reference to the size of the means of partial support with relation to the burdens is confusing in that the burden is not positively claimed (note lines 1-2 of the claim), it is not clear whether or not the size of the unclaimed burdens is required for the definition of the size of the claimed means of partial support

Information Disclosure Statement

3. The information disclosure statement filed with the amendment fails to comply with 37 CFR 1.97(c) because it lacks either:
a statement as specified in 37 CFR 1.97(e), or
the fee set forth in 37 CFR 1.17(p).

Either the statement or the fee are required for the proper filing of an information disclosure statement after the mailing of a first office action but before the mailing of a final office action. The statement has been placed in the application file, but the information referred to therein has not been considered.

Claim Rejections - 35 USC § 103

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claims 31-40 are rejected as being unpatentable over Raichlen (US 6,540,242) in view of Watson (US 6,394,471, cited previously) Raichlen teaches a metallic-tube hand truck cart (10) which may be used with loads ("A"- note from the discussion of

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Prior Art in Raichlen that the accommodation of containers is deemed to be a very common use), including a quick attach/detach lock (16, 17, 18, 19, 20) based on a sliding/pivot mechanism (see figure 6), which co-acts with a ledge (13) of smaller width than a load (e.g., "A"), which can be used to move merchandise from a shopping establishment to a vehicle and throughout a user's residence. The reference to Raichlen fails to explicitly teach the metallic tubing to be a "light alloy", to the breadth such is actually recited in the claims, however the examiner notes that nearly every metallic structural element is an alloy to the breadth claimed, and inasmuch as aluminum, for example, is notoriously old and well known for the construction of carts, and a comparatively light material, it would have been obvious to one of ordinary skill in the art at the time of the invention to use an aluminum alloy for the purpose of constructing a lightweight yet strong cart.

The reference to Raichlen fails to teach (a) the provision of plural ledges and lock elements and (b) the use of a particular container structure. Watson teaches a carrier which can accommodate a plurality of hinged end baskets (31, 32, 33) each supported on a load support (18, 20, 22). It would have been obvious to one of ordinary skill in the art at the time of the invention to duplicate the ledge and lock structure taught by Raichlen, as suggested by the plural load accommodation taught by Watson, for the purpose of allowing a user to move more than a single load at one time.

In general, the examiner notes that the duplication of parts already taught by the prior art, for the purpose of amplifying or enhancing the function that the taught parts perform, is not beyond the skill of the ordinary practitioner.

Response to Comments

6. Applicant's comments have been carefully considered. As regards the references to Watson and Macarthur, the examiner agrees that these references do not each singly meet the limitations of the claims as now recited. Note the reference to Raichlen, now applied in direct response to applicant's amendment.

Applicant has asserted that the invention solves a problem not previously recognized, however applicant is reminded that a prior art device which includes the

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same structure as that which is claimed may render the claim unpatentably obvious or anticipated in view of the prior art, even though the problem it solves may be different.

Note that Raichlen is specifically directed to the removable accommodation of a load on a wheeled cart, and includes a lower ledge for engaging a load, and an upper lock which may be moved into position to engage an opposite surface of the load, Raichlen further teaching a substantial flexibility in load accommodation (see figures 8A, 8B, 8C, 8D, for example). Note that a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

Applicant's comments concerning the crowded nature of the prior art are noted, however it is not clear how such an assertion is to be directed to the application of prior art against the claims as amended.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

8. Any inquiry specifically concerning this communication or earlier communications from the examiner should be directed to F. Vanaman whose telephone number is 571-272-6701.

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Any inquiries of a general nature or relating to the status of this application may be made through either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A response to this action should be mailed to:

Mail Stop _____
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450,

Or faxed to:

PTO Central Fax: 571-273-8300

F. VANAMAN
Primary Examiner
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A handwritten signature in black ink, appearing to read 'F. Vanaman', with a date '1/17/06' written below it.